THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 9386 of 2005

O r d e r:

The petitioner passed ITI in Fitter trade in 1990. He underwent apprenticeship training with the respondents for a period of one year. After completion of apprenticeship, the petitioner started working for the respondents through a contractor as casual labour. In 1995, he lost three fingers of his right hand, and became a physically handicapped person. While so, in 1999, a notification was issued for filling up the posts of Sub-Engineers and Junior Plant Assistants. The petitioner, who applied for the same, was not selected. Therefore, he along with some other non-selectees filed writ petition in W.P. No.23439 of 2000, which was disposed of by this Court with certain directions. Alleging that respondents have violated the said directions, the petitioner and others filed contempt cases. The said contempt cases, along with the contempt case, filed by the petitioner in C.C. No.1527 of 2001, were disposed of by this Court by order dated 18.04.2002 *inter alia* making certain directions. While so, respondent No. 3 issued notifications for filling up two posts of Sub-Engineers and five posts of Junior Plant Assistants. It is this notification, which the petitioner has called in question in this writ petition *inter alia* contending that as per the directions of this Court in the contempt case, the respondents have to appoint him on priority, and without appointing him, they have issued the impugned notification, which is illegal and arbitrary and violative of the directions of this Court.

The learned counsel for the petitioner submits that the petitioner is an ITI and has undergone apprenticeship training with the respondents. He lost three fingers of his right hand while working for the respondents through a Contractor as casual labour and became a physically handicapped person. The petitioner earlier assailed his non-selection in writ petition, and for violation of the orders passed therein, the petitioner filed contempt case, which was disposed of with certain directions. As per the directions of this Court in the contempt case, as and when the respondents go for fresh recruitment, they shall appoint the petitioner on priority and then only go for fresh recruitment, but the respondents without appointing him, have issued the impugned notification, which is illegal and arbitrary.

On behalf of the respondents, their Law Officer filed counter. Based on the counter averments, the learned Standing Counsel for the respondents submitted that the non-selection assailed by the petitioner earlier was in relation to the notification issued by CE/O&M/KTPS-V Stage (New Station), while the present notification, which the petitioner assailed in this writ petition, was issued by CE/O&M/KTPS (Old Station). The New Station and Old Station are different establishment and even the

appointing authorities are different. Therefore, the directions given by this Court to the authorities in the New Station in the contempt case, are not binding on the authorities in the Old Station. She submitted that in pursuance of the orders issued by the Government in G.O. Ms. No.14, Women Department, Child Welfare & Disabled Welfare (DW) Department, dated 20.07.2004 for filling up of backlog vacancies reserved for disabled persons, the respondents issued Memo dated 11.09.2004, and in pursuance thereof, the present notification was issued by the Old Station, for filling up of two vacancies of Sub-Engineers and five posts of Junior Plant Attendant. The petitioner, who applied and attended the selection in response to the notification, was placed at 52nd rank. As there were only five vacancies, they were filled up by the first five rankers. She submitted that as the order of apprenticeship did not provide for any preferential treatment in the event the respondents make regular selection, the petitioner has no right whatsoever to claim preferential treatment over others in the selection process. She thus submitted that no interference is called for with the impugned notification or the selection and prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

There is no doubt that in the contempt case filed by the petitioner complaining violation of the orders passed by this Court in the writ petition filed by him assailing the recruitment notification, this Court had observed that as and when the respondents go for fresh recruitment, they shall appoint the petitioners on priority and then only go for fresh recruitment, but it is the case of the respondents that earlier notification was issued by the New Station, while the present notification is issued by the Old Station. It is their case that the New Station and Old Station are different establishments and the appointing authorities are also different. When the New Station and Old Station and the appointing authorities are said to be different, I fail to understand how the directions given by this Court in the contempt case to the authorities in the New Station, would have binding effect on the authorities in the Old Station. In that view of the matter, no exception can be taken to the action of the respondents in not appointing the petitioner on priority and issuing the impugned notification and making selection, and more so when the directions issued by this Court in the contempt case to the authorities in the New Station are not binding on the respondents, who admittedly are authorities in the Old Station.

Though the petitioner states that inasmuch as he has undergone apprenticeship training with the respondents, he should be given preferential treatment, the same is disputed by the respondents contending that the apprenticeship order did not state that the petitioner would be given preferential treatment in the matter of recruitment. Be that as it may, it is the specific case of the respondents that the petitioner, who applied for and appeared for the selection pursuant to the impugned notification, was placed at 52nd rank, and as there were only five vacancies, they were filled up by the first five rankers. The petitioner having stood at 52nd rank in the selection, cannot assail the notification, and at any rate, cannot seek preferential treatment or priority over others in the matter of

appointment, and more so for the reasons stated above.

For the foregoing reasons, there is no merit in the writ petition and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 3rd April, 2006.

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